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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/553,253

06/30/2006

Roger Green

4990-107 US

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26817

7590

11/10/2010

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EXAMINER

SHAHER, RICKY D

ART UNIT

PAPER NUMBER

2872

MAIL DATE

DELIVERY MODE

11/10/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/553,253	Applicant(s) GREEN ET AL.	
	Examiner Ricky D. Shafer	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-26,29-35 and 37-41 is/are pending in the application.
- 4a) Of the above claim(s) 4,6-19,21-26,29-35 and 37-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,20 and 41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Applicant's election with traverse of Group I (claims 1-4, 20 and 41) and species "B", depicted by Fig. 2b, in the reply filed on 08/11/2010 is acknowledged. The traversal is on the ground(s) that there would be no serious burden to examine all of the claims of the present application along with the elected invention. This is not found persuasive because the restriction requirement set forth in the communication mailed on 07/22/2000 is based on the claimed mutually exclusive special technical features each of which would require a different field of search (for example, employing different search queries) based on their mutually exclusive special technical features. Continued search and examination of claim(s) to a non-elected invention having substantially different structural limitations is a prima facie showing of burden. Applicant may overcome the requirement for restriction by presenting an allowable linking claim or by providing a clear admission on the record that the claim(s) drawn to a given non-elected invention is not patentably distinct from the elected invention.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 4, 6-19, 21-26, 29-35 and 37-40 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 08/24/2009.

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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4. Claims 1-3, 20 and 41 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification, as originally filed, does not provide support for --a communication transmitter having a first profile which can effect concentration of incident radiation at the first surface on to the second surface, wherein the first profile effecting diffusion of emitted radiation from the second surface on to the first surface-- as is now claimed. It would appear that applicant is attempting to combine two different embodiments together to obtain another of which has not been taught or disclosed as being combinable. The specification is completely silent with respect to the above mentioned feature. See page 8, line 5 to page 9, line 13 of the specification.

The specification, as originally filed, does not provide support for -- a communication transmitter having a concentrator being configured to discriminately collect incident radiation depending on polarization such that incident radiation which reaches the second surface has a higher portion of radiation that is plane polarized in a predetermined orientation than the radiation incident on the first surface-- as is now claimed. It would appear that applicant is attempting to combine two different embodiments together to obtain another of which has not been taught or disclosed as being combinable. The specification is completely silent with respect to the above mentioned feature. See page 8, line 5 to page 9, line 13 of the specification.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 2, 3, 20 and 41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, line 2 and claim 20, line 3, the use of the language “and/or” is vague and indefinite due to the fact that claim limitations must be set forth in the alternative only.

In claim 41, lines 2 and 3, the use of the language “incident radiation” is vague, indefinite and lacks proper nexus with respect to the incident radiation recited in claim 1, line 4.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Heidorn ('660).

To the extent the claim is supported by the original specification, Heidorn discloses a communication transmitter comprising an emitter (26, 28) and a concentrator (34, 36), the concentrator having a first surface (46), a second surface (44), and a concentrating surface (34) disposed between the first surface and the second surface, the concentrating surface having a first profile which can effect concentration of incident radiation at the first surface, wherein the emitter is adjacent the second surface for emitting radiation from the second surface (see figures 3-5), the first profile effecting diffusion of emitted radiation from the second surface on to the first surface, and radiation being transmitted from the first surface. Note figures 3-5 along with the associated description thereof.

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9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 2, 3, 20 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heidorn ('660).

To the extent the claims are definite and supported by the original specification, Heidorn discloses all of the subject matter claimed, note the above explanation, except for polarizing being adjacent or proximal the second surface.

It is well known to use a polarizing filter adjacent a light source in the same field of endeavor for the purpose of obtaining and/or providing polarized light.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the second surface of the concentrator or the light source to include a polarizing filter, as commonly used and employed in the art in order, to obtain and/or provide polarized light.

11. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Reference numeral 120, disclosed on page 7 of the specification and reference numeral 410, disclosed on page 11 of the specification have not been properly illustrated and/or labeled. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being

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amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320.

The examiner can normally be reached on Mon-Fri. 11:00 to 7:30.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RDS

November 08, 2010

/Ricky D. Shafer/
Primary Examiner
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